

MICHIGAN DOMESTIC VIOLENCE PREVENTION AND TREATMENT BOARD

MEETING MINUTES December 3, 2004

***** APPROVED – February 11, 2005 *****

Members Present:

Honorable Amy Krause, Chair
Gwendolyn Brown
Marie Donigan
Shirley Mann Gray
Lore Rogers
Honorable Edward Sosnick

Staff Present:

Michelle Bynum
Debi Cain, Executive Director
Julie Giddings
Carol Hackett Garagiola
Penny Hackett-Evans

Shelia Hankins
Josie Jubb
Mary Lovik
Karen Porter
Joyce Wright

Guests:

RoAnn Beebe, Nottawaseppi Huron Band of Potawatomi (Fulton)
Tom Cottrell, YWCA of Grand Rapids
Patrice Eller, FIA
Bret Finzel, Shelter, Inc. (Alpena)
Rhoda Hacker, River House Shelter (Grayling)
Michele Hernandez, MSP
Doreen Howsen, Diane Peppler Resource Center, Inc. (Sault Ste. Marie)
Mary Keefe, MCADSV
Jan Mancinelli, Women's Resource Center of Northern MI (Petoskey)
Jennifer McEldowney, SAFE Place (Battle Creek)
Gail Nelson, Women's Center (Marquette)
Anitta Orr, YWCA-Interim House (Detroit)

Welcome and Introductions

The December 3, 2004 Michigan Domestic Violence Prevention and Treatment Board (MDVPTB) meeting at the Kellogg Center in East Lansing, MI, convened at 10:15 a.m. Introductions were made and a welcome extended to guests.

BOARD CONSENT

Review of agenda, approval of September 28, 2004 Board meeting minutes.

MOTION: Moved by L. Rogers to approve the December 3, 2004 agenda and approve the September 28, 2004 meeting minutes. Seconded by S. Mann Gray. Motion carried.

CHAIR'S REPORT

A. Krause reported that M. Donigan has been elected to the House of Representatives, so will be leaving the Board.

A letter has been sent to the Governor requesting that January be recognized as "Stalking Awareness Month". Michigan would be one of the first to have this.

Chair A. Krause, D. Cain, and C. Hackett Garagiola recently met with M. Chiara, and L. Hagen from the United State Attorney's Office, Western District regarding trafficking.

A. Krause informed the Board of a House resolution regarding Personal Protection Orders (PPO's).

The Governance Process and Policy Review: Governance Commitment; Chairperson's Role; Monitoring Executive Director Performance

The Board reviewed the policies. No motion required.

EXECUTIVE DIRECTOR'S REPORT – GENERAL OVERVIEW OF WORK TO DATE

Legislative Report:

D. Cain and C. Hackett Garagiola reported on a House resolution recommending a PPO Task Force.

MOTION: Moved by L. Rogers to suggest that if the resolution passes, the Governor refer the issues detailed in the resolution to MDVPTB. Seconded by S. Mann Gray. Motion carried.

M. Lovik provided an update on HB5949 that proposes replacement of the term "custody" in the child custody act. The H-1 substitute that passed the House does not address the process concerns raised by the Board at its September meeting. The legitimacy of the Board's process concerns is evidenced by the apparently unintentional omission of non-residential parent/child contact from the substitute bill.

MOTION: Moved by L. Rogers for the Board to adopt the following positions concerning H-1 substitute. Courts must be given clear standards governing the allocation of decision-making responsibility and residential care for children after their parents separate. A parent's "right" to exercise physical or legal responsibility for a child must never be given priority over the physical and emotional safety of each child and parent; Courts must be given clear standards to determine when a parent's behavior makes it unsafe for that parent to have decision-making responsibility or residential care for a child. Once such a determination has been made, courts must also have clear standards to apply to ensure that the parent's non-residential contact with a child does not endanger the child, the other parent, or any other person; Ambiguous laws and court orders create opportunities for domestic violence perpetrators to manipulate the legal system as a weapon against their former intimate partners; The best way to protect children from domestic violence is to protect

the abused parent and to hold the abuse perpetrator accountable. Seconded by S. Mann Gray. Motion carried.

Discussed HB4096 regarding Children's Ombudsman. The MDVPTB has expressed concerns with the confidentiality provisions of this bill and the importance of domestic violence training. Recommended that D. Cain and A. Krause contact Ombudsman, Lynne Martinez, to see where they're at with the training issue. C. Hackett Garagiola updated the Board on HB5409, dating violence. The Board had previously cleaned up some language to this that was accepted.

There was discussion on HB5493, Expunging Criminal Misdemeanors. This bill would amend MCL780.621 to allow a person convicted of not more than 1 felony offense or not more than 2 misdemeanor offenses to file an application with the convicting court for an order setting aside either the felony offense or one or both of the misdemeanor offenses. On June 18, 2004 the Board voted to oppose as written, and authorized staff to advocate for limitations on the domestic violence misdemeanor convictions that can be expunged under MCL780.621. MDVPTB staff have been working with legislative staff to accomplish that limitation. MDVPTB staff request that the Board consider adopting guiding principles that equip staff to respond to legislative and other proposals that provide perpetrators with opportunities to avoid or erase criminal convictions for their crimes.

MOTION: Moved by L. Rogers to promote accuracy and completeness in compiling criminal histories for domestic violence perpetrators, MDVPTB staff may participate in policy discussions in legislative and other arenas regarding issues related to opportunities for DV perpetrators to avoid or erase criminal convictions for DV crimes. The Board adopts the following positions to guide staff participation in these policy discussions. Accurate and complete criminal histories for domestic violence perpetrators are critical tools to aid the criminal justice, civil justice and child protection systems in making decisions that protect domestic violence victims and their children, and in holding perpetrators accountable for the abuse; MDVPTB opposes providing opportunities for domestic violence perpetrators to avoid or eliminate criminal convictions for their crimes, through dismissal, expungement or other avenues, beyond those that exist in current law; In addition, MDVPTB supports examination of opportunities that exist in current law for domestic violence perpetrators to avoid or eliminate criminal convictions for their crimes, through dismissal, expungement or other avenues, and further supports efforts to reduce or eliminate those opportunities (other than MCL 769.4a dismissals) whenever possible. For this purpose, MDVPTB supports a broad interpretation of "domestic violence crimes" to include any crimes committed against a person who has a domestic relationship with the perpetrator: spouse, former spouse, person with whom he or she has had a child in common, person with whom he or she has or has had a dating relationship, person residing or having resided in the same household." Seconded by E. Sosnick. Motion carried.

Discussed HB4468 and *People v Maynor*, definitions of Criminal Child Abuse. HB4468 would redefine criminal child abuse in the 2nd, 3rd, and 4th degrees under MCL750.136b. Issues concerning a battered mother's "failure to protect" her children from exposure to a domestic partner who abuses the mother continue to arise in several contexts in Michigan. MDVPTB staff seeks Board guidance regarding these issues for future staff participation in policy discussions in the legislative and other arenas.

MOTION: Moved by E. Sosnick, MDVPTB Staff are authorized to participate in policy discussions in the legislative and other arenas regarding issues related to children exposed to domestic violence, including but not limited to definitions of criminal child abuse, enhanced criminal penalties for children witnessing domestic violence, CPS guidelines/policies regarding substantiation of child abuse; child custody decisions; and training/policy for CPS workers, and criminal and civil justice system professionals, about domestic violence and appropriate responses when children are exposed to domestic violence. The Board adopts the following positions to guide staffs' participation in these policy discussions. MDVPTB is committed to the development and implementation of policies that promote safety, security, autonomy, stability and justice for children exposed to domestic violence; The best way to promote safety, security, autonomy, stability and

justice for children exposed to domestic violence is to provide safety, security, autonomy, stability and justice for the non-offending parent, and to hold the abuser accountable for the abuse; The holdings and discussions of the federal district court, the U.S. Court of Appeals for the Second Circuit, and the New York Court of Appeals in *Nicholson v. Scoppetta* (aka *Nicholson v. Williams*) provide helpful and important concepts that MDVPTB wishes to promote in policy discussions related to children exposed to domestic violence. Among the key concepts drawn from the *Nicholson* case that MDVPTB wishes to promote in policy discussions is the focus on the reasonableness of an abused parent's actions, given options for safety, stability, security, autonomy and justice available to the abused parent, and whether any actual harm to a child is clearly attributable to the abused parent's failure, rather than to the failure of systems and individuals responsible for stopping the abuser. That focus is more likely to result in policies, and determinations in individual cases, that promote safety, security, stability and justice for children exposed to domestic violence, and for victims of domestic violence. Seconded by L. Rogers. Motion carried.

Discussed HB6234 Background check for dating service participants. Board elected not to take a position on this bill.

Update on SB727 Grandparenting time.

Discussed Court Rule Proposals. The proposed amendments would bring this rule governing hearings before domestic relations referees into conformance with amendments recently enacted to MCL552.507. Chair A. Krause asked that staff check with Circuit Court Judge Janelle Lawless and Judge Laura Baird for any comments on these. Also E. Sosnick suggested we check with Oakland County Friend of the Court. Item to be addressed at the February Board meeting.

D. Cain discussed there are numerous legislative issues that need to be resolved. Chair A. Krause asked that we add PR Bond to the list. Staff will draft and get to Ron Hicks.

D. Cain discussed plans for educating legislators on Violence Against Women. Staff proposed having a legislative reception. D. Cain asked Legislative Committee to work with staff to figure out logistics. Other suggestions included having Board members meet with legislators in their offices, e-report, having small meetings, sending informational packets to legislators outlining help for their constituents.

Chair A. Krause presented M. Donigan a plaque from the Board for serving with MDVPTB 2003-2004.

Executive Limitations:

Treatment of Staff, Compensation and Benefits, Financial Condition, Assurance of Quality, and The Contracting Process

The Board reviewed and approved D. Cain's reports.

MOTION: Moved by E. Sosnick to accept Executive Limitation Reports: Treatment of Staff, Compensation and Benefits, Financial Condition, Assurance of Quality, and The Contracting Process. Seconded by L. Rogers. Motion carried.

As determined at the September meeting, revisions were drafted for the 1st quarter Executive Limitations to reflect positive language.

MOTION: Moved by G. Brown to accept draft language to Executive Limitation Reports: Treatment of Staff, Compensation and Benefits, Financial Condition, Assurance of Quality, and The Contracting Process. Seconded by S. Mann Gray. Motion carried.

NEW INITIATIVES/PROJECT UPDATES

S. Hankins gave an update to the Safe Havens Supervised Visitation and Exchange Program and discussed the Michigan Demonstration Site Safe and Accountability Audit Planning Assessment. Shelia reviewed various unresolved issues under discussion with the national pilots, including Michigan. The grant has been extended for one year to December 31, 2006.

J. Wright gave an update to some of MDVPTB's child/youth collaborations, including updates on the Head Start pilot and the national ABA project on dating violence. Preliminary discussions have been conducted with Blue Cross/Blue Shield and Verizon about partnering with MDVPTB to update our youth education packet, updating brochures, revive some PSA's, and developing new materials regarding elder abuse.

D. Cain gave an update on Domestic Violence/Migrant Workers Collaboration with Martha Cortes and Community Health on screening migrant workers for Domestic Violence. 4 communities (Saginaw, Kent County, Three Rivers, Ludington) have been selected as pilot sites. This is in the preliminary stages.

PROCESS EVALUATION

Chair A. Krause, thanked MDVPTB staff for doing an amazing job.

Chair A. Krause also thanked all of the guests and indicated the Board appreciates the information and collaboration provided by service providers, MSP, and MCADSV.

L. Rogers commented that it's very valuable to have staff activities reported at the Board meetings.

The Board expressed good wishes to M. Donigan, the Board will miss you.

ADJOURNMENT

The meeting ended at 2:10 p.m.

MOTION: Moved by E. Sosnick to adjourn the meeting. Seconded by L. Rogers. Motion carried.

Respectfully submitted,
Josie Jubb